

In particular, the Applicant respectfully submits herewith four declarations of people who use a product embodying the invention as recited in at least pending claims 1, 2, and 3 of the present application. In particular, submitted herewith are declarations of Kelly Good (the Applicant), Steve Cupps, Wayne Biehle, and Brian Bochet. Each of these declarations supports the Applicant's argument that the cited references as combined by the Examiner do not disclose, teach, or suggest the invention as recited in currently pending claims 1, 2, and 3.

Each of the attached Declarations describes a product sold under the trademark Caulked N' Ready as having all of the elements of pending claim 1 and indicates that one of ordinary skill in the art would not combine the Cleveland and Bostelman patents to obtain the present invention as recited in claim 1. Claims 2-10 and 22 further define claim 1 and should be allowable for at least the same reason.

Each Declaration further indicates that the Caulked N' Ready product has all of the elements of pending claim 2 and that one of ordinary skill in the art would not combine the Cleveland, Bostelman, and Shelley references to obtain invention as recited in claim 2.

Finally, the attached declarations further indicate that the Caulked N' Ready product contains all of the elements of pending claim 3 and that one of ordinary skill in the art would not combine the Cleveland, Bostelman, and Litman references to obtain the present invention as recited in claim 3.

Claim 11 is a method claim generally reciting the same elements as claim 3 and thus should also be in condition for allowance for the reasons state above. Claims 12-16 and 23 further define claim 11 and should also be in condition for allowance.

Claim 17 is an apparatus claim generally reciting each of the elements of claims 1, 2, and 3 as described above and thus should also be in condition for allowance. Claims 18-21 and 24 further define claim 17 and should also be in condition for allowance.

The Applicant respectfully submits that the enclosed declarations support the Applicant's contention that the Examiner has not identified any specific teaching that would motivate one of ordinary skill in the art to combine the cited references as suggested by the Examiner. The Applicant further submits that, absent impermissible

hindsight gained by reading the Applicant's disclosure, nothing in the record suggests the combination cited by the Examiner.

The Applicant respectfully thus submits that the evidence submitted herewith renders moot the Examiner's rejections under 35 USC § 103(a) based on various combinations of the Cleveland, Bostelman, Shelley et al., and Litman patents and requests withdrawal of these rejections.

The Applicant acknowledges the provisional double-patenting rejection based on the Applicant's co-pending U.S. Patent Application Serial No. 10/367,088. The Applicant will deal with this provisional rejection should the present invention and the '088 application both mature into patents.

Given the foregoing, the Applicant respectfully submits that claims 1-24 are in condition for allowance, and such allowance is respectfully requested. If there is any matter which could be expedited by consultation with the Applicant's attorney, such would be welcome. The Applicant's attorney can normally be reached at the telephone number below.

Signed at Bellingham, County of Whatcom, State of Washington this 18th day of August, 2005.

Respectfully submitted,

Kelly Good

By Michael R. Schacht

Michael R. Schacht, Reg. No. 33,550
2801 Meridian Street, Suite 202
Bellingham, WA 98225-2400
phone: (360) 647-0400
fax: (360) 647-0412
Customer No. 30662

CERTIFICATE OF MAILING
37 C.F.R. §1.8

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Signature: Susie Hubka

Print Name: Susie Hubka

Date: August 18, 2005